

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Oversee
the Resource Adequacy Program, Consider
Program Refinements, and Establish Annual
Local Procurement Obligations.

Rulemaking 11-10-023
(Filed October 20, 2011)

**DECISION GRANTING COMPENSATION TO DISTRIBUTED ENERGY CONSUMER
ADVOCATES TO DECISION 13-06-024**

Claimant: Distributed Energy Consumer Advocates (DECA)	For contribution to Decision 13-06-024
Claimed: \$ 31,377.50	Awarded: \$30,417.65
Assigned Commissioner: Michel Peter Florio	Assigned ALJ: David M. Gamson

PART I: PROCEDURAL ISSUES

A. Brief Description of Decision:	Authorizing 2014 RA targets and creates interim flexible capacity product.
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**B. Claimant must satisfy intervenor compensation requirements set forth in Public Utilities
Code §§ 1801-1812:**

	Claimant	CPUC Verified
Timely filing of notice of intent to claim compensation (NOI) (§ 1804(a)):		
1. Date of Prehearing Conference:		
2. Other Specified Date for NOI:		November 28, 2011.
3. Date NOI Filed:	9/27/2012	Correct.
4. Was the NOI timely filed?		No. DECA's motion to late file was granted by the Assigned Administrative Law Judge.

Showing of customer or customer-related status (§ 1802(b)):		
5. Based on ALJ ruling issued in proceeding number:		
6. Date of ALJ ruling:		
7. Based on another CPUC determination (specify):	Via email with ALJ Gamson	Correct.
8. Has the Claimant demonstrated customer or customer-related status?	After review of DECA's NOI and Articles of Incorporation, the Commission has determined that it has demonstrated Category 3 customer status.	
Showing of "significant financial hardship" (§ 1802(g)):		
9. Based on ALJ ruling issued in proceeding number:	Rulemaking 12-06-013	Agreed.
10. Date of ALJ ruling:	02/25/2013	Agreed.
11. Based on another CPUC determination (specify):		
12. Has the Claimant demonstrated significant financial hardship?	Yes, the intervenor demonstrated significant financial hardship.	
Timely request for compensation (§ 1804(c)):		
13. Identify Final Decision:	Decision (D.)13-06-024	Agreed.
14. Date of Issuance of Final Order or Decision:	June 27, 2013	July 3, 2013
15. File date of compensation request:	9/26/2013	
16. Was the request for compensation timely?	Yes, the request for compensation was timely filed.	

PART II: SUBSTANTIAL CONTRIBUTION

A. Description of Claimant's contribution to the final decision (see § 1802(i), § 1803(a) & D.98-04-059).

Intervenor's Claimed Contribution	Specific References to Claimant's Presentations and to Decision	Showing Accepted by CPUC
<p>1. Adoption of a 2015 compliance year flexibility requirement that specifically addresses flexibility contributions for preferred resources.</p>	<p>DECA developed and presented at the March 20, 2013 all day workshop its "Full Credit" proposal for preferred resources. DECA was the only entity to present at the workshop that produced a proposal for specifically addressing contributions from preferred resources.</p> <p>DECA commented on the record at the January23 workshop on the implications for preferred resources of the Joint Parties' proposal and the ED proposal.</p> <p>DECA's workshop comments opposed a 2013 compliance year implementation of a flexible capacity procurement obligation.</p> <p>D.13-06-024 only adopted the Joint Parties' proposal on an abstract basis with no filing requirement for the 2014 compliance years, consistent with DECA's position that the 2013 compliance year was too soon for the Joint Parties' or Energy Division Staff proposals. The decision rejected a 2013 compliance year implementation (including for "test runs"). (see at 53-55)</p> <p>The 8/02/2013 ACR and scoping memo adopted a 2014 compliance year (2015 physical year) (See at 3, 6,)</p>	<p>Yes.</p>
<p>2.Rejection of the original Energy Division staff proposal.</p>	<p>DECA drafted and filed comments opposing the Energy Division's original staff proposal, met directly with Energy Division staff to emphasize the shortcomings of the original Energy Division staff proposal, and the propose alternatives.</p> <p>Energy Division staff significantly revised their original proposal. While</p>	<p>Yes. While the Commission agrees that DECA commented on the need to reject the original Energy Division proposal, such comments and work performed was duplicative of the</p>

	<p>DECA's preferred Maximum Cumulative Flexible Capacity Bucket proposal was not adopted, Energy Division staff did abandon its original staff proposal in favor of an alternative. (as presented at the same March 20, 2013 workshop that DECA presented its Full Credit proposal at. The exact counting mechanism for flexible capacity for preferred resources are scheduled to be addressed in phase three, consistent with DECA's proposed schedule and the August 2, 2013 scoping ruling.</p>	<p>work performed by other intervenors. As such, the Commission will reduce DECA's contribution to this area by 20%.</p>
<p>3. Adoption of a September, 2013 schedule for Demand Response planning purposes</p>	<p>DECA supported in its workshop comments a September, 2013 schedule for addressing Demand Response for planning purposes.</p> <p>The 8/02/2013 ACR and scoping memo adopted a 2014 compliance year (2015 physical year) target for flexible capacity specifically addressing DR in September 2013, consistent with DECA's proposals. (See at 3, 6)</p>	<p>Yes.</p>
<p>4. Rejection of the Joint Parties' Proposal for 2013 compliance year.</p>	<p>DECA opposed adopting the JPP for 2013 in its workshop presentation, comments on the workshop and in comments on the PD.</p> <p>While D.13-06-024 adopted the Joint Parties' proposal on an abstract basis, it expressly opposed implementing it on a "trial run" basis for 2013. (see at 53-55)</p>	<p>Yes.</p>

B. Duplication of Effort (§§ 1801.3(f) & 1802.5):

	Claimant	CPUC Verified
a. Was the Office of Ratepayer Advocates (ORA) a party to the proceeding?¹	Yes	Correct.
b. Were there other parties to the proceeding with positions similar to yours?	Yes	Correct.
c. If so, provide name of other parties: Sierra Club, TURN, Clean Coalition, PG&E, Vote Solar, et al.		Agreed.
d. Describe how you coordinated with ORA and other parties to avoid duplication or how your participation supplemented, complemented, or contributed to that of another party: DECA had regular phone and in person conversations with parties in the proceeding with the intent of ensuring that a coordinated strategy was developed between interested parties and that the most time efficient balance of party resources was used. These conversations included follow up with PG&E to discuss scheduling of demand response for 2013 in workshop comments and replies and coordination phone calls with preferred resource industry representatives to ensure DECA's Full Credit proposal reflected the real world needs of industry participants and common utility practices.		Agreed.

PART III: REASONABLENESS OF REQUESTED COMPENSATION**A. General Claim of Reasonableness (§§ 1801 & 1806):**

a. Concise explanation as to how the cost of Claimant's participation bears a reasonable relationship with benefits realized through participation DECA exists to advocate on behalf of residential and small commercial customers who can make more cost effective investments than the utilities make on their behalf. A significant portion of this cost effectiveness comes from preventing costs that could be avoided from being assigned to those customers.	CPUC Verified Verified.
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¹ The Division of Ratepayer Advocates was renamed the Office of Ratepayer Advocates effective September 26, 2013, pursuant to Senate Bill No. 96 (Budget Act of 2013), which was approved by the Governor on September 26, 2013.

<p>In this proceeding that cost savings includes both avoided procurement of new resources (see DECA's March 20, 2013 workshop presentation) to meet "flexibility requirements" in excess of thousands of MegaWatts at a savings of billions of dollars, by ensuring that imports are counted for their contribution to flexibility.</p> <p>It also includes the ability of DECA's members to receive compensation for their investments' abilities to provide flexibility directly to utilities or other wholesale market participants through their participation in demand response programs or by curtailing the generation of their renewable resources.</p> <p>These cost savings far exceed the cost of DECA's participation in this proceeding and benefit both DECA's members and all California ratepayers as well as the environment including local air quality in some of California's most at risk communities.</p>	
<p>b. Reasonableness of Hours Claimed.</p> <p>DECA has endeavored to minimize the number of hours involved in this proceeding. While DECA did invest a considerable amount of time in the development of its Full Credit proposal and in conversations around the use of Maximum Cumulative Capacity buckets as a tool for addressing preferred resources, no other entity was considering alternative to a "fossil first" Joint Parties proposal once the Energy Division staff modified its original proposal. The number of hours invested by DECA in its proposal was minimized by its incremental approach to its proposal – presenting a minimum viable product and then waiting for Commission blessing before continuing with development efforts. Many of the issues raised by DECA in its Full Credit proposal are scoped to be addressed in phase three of this proceeding and will likely be more fully addressed at that time. By waiting until the Commission had an opportunity to determine that the issues addressed by DECA should be investigated as part of an ongoing analytical process DECA has hopefully struck a balance between providing helpful information for the record and minimizing the costs associated with the hours invested.</p> <p>As a matter of practice DECA only submits claims for work that is 100% related to the proceeding in question, so meetings or work that cover more than one proceeding are excluded from any calculus, even if those proceedings are related. DECA does not submit claims for travel expenses related to the CPUC. DECA also always calculates related support work performed based on a 50% reduction in the hourly rate similar to the Commission's practice for preparing an intervenor compensation claim. In this way DECA is not "billing up" for administrative work. With regard to Mr. Shumavon's work, DECA submits claims at \$200/hr for Mr. Shumavon, which is significantly below the market rate charged by Mr. Shumavon for his consulting work outside</p>	<p>Verified.</p>

of his work for DECA. Finally, DECA passes on only the directly bill hours from its outside counsel Michael Dorsi with no administrative adder. Mr. Dorsi's rate reflects a reduction of his normal rate and is consistent with the guidelines established in the intervenor compensation program for an attorney with many years of staff experience on at the CPUC and in the energy industry.	
c. Allocation of Hours by Issue	DECA provided the Commission with additional documentation explaining its allocation of hours by issue.

B. Specific Claim:

CLAIMED						CPUC AWARD		
ATTORNEY, EXPERT, AND ADVOCATE FEES								
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Hours	Rate \$	Total \$
Michael Dorsi	2013	3.53	275	More than one year of CPUC jurisdiction work after law school, 5 years of work at the CPUC and for the CA attorney general’s office on energy issues in FERC and state jurisdictions.	970.75	3.52 [1]	\$195.00 [2]	686.40
Aram Shumavon	2013	154.75	200	13 years of cpuc experience (11 at the cpuc, 2 in private practice)	30050	146.45 [3]	\$200.00 [4]	29,290.00
Brad Bordine	2013	1.25	75	associate analyst	93.75	1.05 [5]	\$75.00	78.75
Subtotal: \$ 31,114.5						Subtotal: \$ 30,055.15		

OTHER FEES								
Describe here what OTHER HOURLY FEES you are Claiming (paralegal, travel **, etc.):								
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Hours	Rate	Total \$
Brad Bordine	2013	3	37.5	Half rate	131.25	3	\$37.50	112.50
						[6]		
<i>Subtotal: \$131.25</i>						<i>Subtotal: \$112.50</i>		
INTERVENOR COMPENSATION CLAIM PREPARATION **								
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Hours	Rate	Total \$
Brad Bordine	2013	4	37.5	Half rate	150	4	\$37.50	\$150.00
Aram Shumavon	2013	1	100	Half rate	100	1	\$100.00	\$100.00
<i>Subtotal: \$250.00</i>						<i>Subtotal: \$250.00</i>		
TOTAL REQUEST: \$								
31,377.50						TOTAL AWARD: \$ 30,417.65		
<p>*We remind all intervenors that Commission staff may audit their records related to the award and that intervenors must make and retain adequate accounting and other documentation to support all claims for intervenor compensation. Claimant's records should identify specific issues for which it seeks compensation, the actual time spent by each employee or consultant, the applicable hourly rates, fees paid to consultants and any other costs for which compensation was claimed. The records pertaining to an award of compensation shall be retained for at least three years from the date of the final decision making the award.</p> <p>** Approved Travel and Reasonable Claim preparation time compensated at 1/2 of preparer's approved hourly rate</p>								
Attorney		Date Admitted to CA BAR²		Member Number		Actions Affecting Eligibility (Yes/No?)		
						If "Yes", attach explanation		
Michael Dorsi		January 19, 2012		281865		No		

2 This information may be obtained at: <http://www.calbar.ca.gov/>.

C. CPUC Disallowances and Adjustments:

Item	Reason
[1]	As noted in Part II.A, the Commission finds DECA's work in the area of rejecting the Energy Division's staff proposal to be duplicative and reduced compensation by 20%. As such, the following hours are removed from DECA's award: 0.1 hour for Dorsi's work in 2013; 3.3 hours for Shumavon's work in 2013; and 0.2 hours for Bordine's work in 2013;
[2]	Dorsi was admitted to the California Bar on January 19, 2012. In March of 2013, Dorsi had just over one year legal experience. As stated in Resolution ALJ-281, for 2013, attorneys with 0-2 years of experience should have an hourly rate range of 160-215 dollars. Because of Dorsi's past work with the CPUC, the Commission sets the 2013 rate at \$195.
[3]	Based on the timesheets filed, Shumavon spent 149.75 hours working on this proceeding.
[4]	The Commission agrees that based on Shumavon's experience a 2013 rate of \$200 is valid.
[5]	The Commission sets Bordine's 2013 rate at \$75.00, a rate similar to other associate analysts. <i>See</i> D.13-10-012.
[6]	The Commission corrected a mathematical error of DECA.

PART IV: OPPOSITIONS AND COMMENTS

**Within 30 days after service of this Claim, Commission Staff
or any other party may file a response to the Claim (*see* § 1804(c))**

A. Opposition: Did any party oppose the Claim?	No.
B. Comment Period: Was the 30-day comment period waived (<i>see</i> Rule 14.6(C)(6))?	Yes.

FINDINGS OF FACT

1. Distributed Energy Consumer Advocates has made a substantial contribution to D.13-06-024.
2. The requested hourly rates for Distributed Energy Consumer Advocates' representatives, as adjusted herein, are comparable to market rates paid to experts and advocates having comparable training and experience and offering similar services.

3. The claimed costs and expenses, as adjusted herein, are reasonable and commensurate with the work performed.
4. The total of reasonable compensation is \$30,417.65.

CONCLUSION OF LAW

1. The Claim, with any adjustment set forth above, satisfies all requirements of Public Utilities Code §§ 1801-1812.

ORDER

1. Distributed Energy Consumer Advocates is awarded \$30,417.65.
2. Within 30 days of the effective date of this decision, Pacific Gas and Electric Company, Southern California Edison, and San Diego Gas & Electric Company shall pay Distributed Energy Consumer Advocates their respective shares of the award, based on their California-jurisdictional electric revenues for the 2013 calendar year, to reflect the year in which the proceeding was primarily litigated. Payment of the award shall include interest at the rate earned on prime, three-month non-financial commercial paper as reported in Federal Reserve Statistical Release H.15, beginning November 9, 2013, the 75th day after the filing of Claimant's request, and continuing until full payment is made.
3. The comment period for today's decision is waived.
4. This decision is effective today.

Dated _____, at San Francisco, California.

APPENDIX

Compensation Decision Summary Information

Compensation Decision:		Modifies Decision?	No
Contribution Decision(s):	D1306024		
Proceeding(s):	R1110023		
Author:	ALJ Gamson		
Payer(s):	Pacific Gas and Electric Company, Southern California Edison Company, and San Diego Gas & Electric Company		

Intervenor Information

Intervenor	Claim Date	Amount Requested	Amount Awarded	Multiplier?	Reason Change/Disallowance
Distributed Energy Consumer Advocates	9/26/2013	\$31,377.50	\$30,417.65	N/A	See Part III.C.

Advocate Information

First Name	Last Name	Type	Intervenor	Hourly Fee Requested	Year Hourly Fee Requested	Hourly Fee Adopted
Aram	Shumavon	Expert	Distributed Energy Consumer Advocates	\$200	2013	\$200.00
Brad	Bordine	Advocate	Distributed Energy Consumer Advocates	\$75	2013	\$75.00
Michael	Dorsi	Attorney	Distributed Energy Consumer Advocates	\$275	2013	\$195.00

(END OF APPENDIX)